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**KYSC1975-SC-0910-01**

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# **APPELLANT'S BRIEF**

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# COURT OF APPEALS OF KENTUCKY

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NO. 75-910

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RANDALL ROBINSON ..... Appellant

VS.

COMMONWEALTH OF KENTUCKY .....Appellee

## BRIEF FOR APPELLANT

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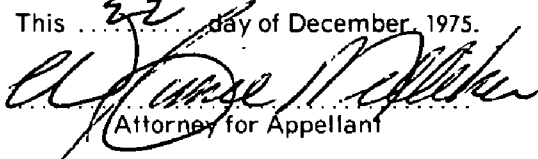
### APPEAL FROM WARREN CIRCUIT COURT

---

W. Currie Milliken  
**MILLIKEN AND MILLIKEN**  
1039 College Street  
Bowling Green, Kentucky  
Attorney for Appellant

This is to certify that the within Brief for Appellant has been served on the Trial Judge, Hon. Thomas W. Hines, Commonwealth Attorney, Hon. Morris Lowe and the Hon. Ed Hancock, Attorney General in accordance with RCA 1.250 and in the manner prescribed by CR 5.02.

This <sup>22</sup> day of December, 1975.

  
Attorney for Appellant

FILED  
DEC 23 1975  
CLERK OF COURTS  
COMMONWEALTH OF KENTUCKY

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# COURT OF APPEALS OF KENTUCKY

NO. 75-910

RANDALL ROBINSON ..... Appellant

VS.

COMMONWEALTH OF KENTUCKY .....Appellee

APPEAL FROM WARREN CIRCUIT COURT

BRIEF FOR APPELLANT

MAY IT PLEASE THE COURT:

STATEMENT OF QUESTIONS PRESENTED

I.

Did the Court err in failing to sustain the defendant's Motion to suppress certain evidence introduced by the Commonwealth at the trial of the case on the grounds that the evidence was seized as a result of an illegal search and seizure based upon an invalid search warrant?

II.

Did the Court err in permitting the Commonwealth to introduce testimony and evidence of other charges pending

against the defendant, which charges were pending at the time of this trial?

### STATEMENT OF THE CASE

During the November, 1974 term, the Warren County Grand Jury returned Indictment No. 15883 against Thomas Lancaster and Randall Robinson, charging that on or about November 8, 1974 the defendants had committed the offense of knowingly receiving stolen property, to wit: a 1970 Massey Ferguson tractor, contrary to KRS 433.290. (T.R. page 2). During the same Grand Jury Term, one Shirley Basham was also indicted by a separate Indictment with the same offense, and arising out of the same transaction.

As a word of explanation to the Court, this attorney represented the defendant, Basham at the trial level. The defendant, Robinson was represented by the Hon. Jeffrey O'Grody. Since the trial, the defendant, Robinson has retained this attorney to prosecute his appeal.

Prior to the trial, a lengthy hearing was held on Motions to suppress the evidence which was seized as a result of a search of the Basham farm in Warren County, Kentucky. This Motion was based (insofar as it effects this case on appeal) primarily on the grounds that the Affidavit filed in support of the search warrant was insufficient. The Court overruled defendant's Motion to suppress the tractor seized as a result of the search of the Basham farm and permitted the Commonwealth to introduce evidence concerning this tractor.

A trial was had on the charges on April 23, 24, 25 and 26 in the Warren Circuit Court. During the trial of the case,

the Commonwealth was permitted, over objections of defense counsel, to constantly refer to and introduce evidence of alleged stolen property which had supposedly been found on the defendant, Robinson's farm in Henry County. Simultaneous with the charges in Warren Circuit Court, a search had been conducted of Robinson's farm in Henry County and resulted with similar charges being placed against him in that county. At the date of the trial in Warren County these charges were pending and the defendant had not been tried on them. Defense counsel objected to the admission of this evidence on the grounds that it was introduced solely for the purpose of prejudicing and inflaming the jury and was incompetent on a trial of the charges in Warren County. The jury after due deliberation acquitted the defendant, Lancaster, was unable to reach a verdict as to the defendant, Basham and convicted the defendant Randall Robinson and set his punishment at a term of three years. It is from this conviction and final sentence entered on May 9, 1975 (T.R. Page 25), that the defendant appeals.

## **ARGUMENT**

### **I.**

The Court erred in failing to sustain the defendant's Motion to suppress certain evidence introduced by the Commonwealth at the trial of the case on the grounds that the evidence was seized as a result of an illegal search and seizure based upon an invalid search warrant.

As a matter of convenience, the Affidavit signed by Detective Chris Watt which was made to support the search warrant is attached to this Brief marked Exhibit A.

(For reference to Affidavit, T.E. page 7 and page 12). The salient part of the Affidavit reads as follows:

"This farm was determined to be in Warren County, Kentucky. Gray told me he knew the tractor was stolen property because an informant had today told him so and he knew the informant to be confidential and reliable and that Sergeant David Vinsel of Louisville Police Department told him this date it was stolen and that Vinsel said to Gray that an informant who was reliable told him the tractor was stolen and the informant had given information before and it was proved to be reliable. Terry Gray told me he witnessed the above acts."

At the preliminary hearing the individual who made the Affidavit, Detective Chris Watt, of the Kentucky State Police, testified as to the knowledge he had and upon which he based his Affidavit:

"Q. 16. And you talked to Hobson and Gray," (and Gray is, of course the State Police Detective that it is referring to.)

A. Right.

Q. 17. What did they tell you?

A. Detective Grey stated that they were following a stolen tractor to Bowling Green and Detective Hobson said that they followed it to the farm of Shirley Basham just off Campbell Road. He said, approximately, I believe, he said four miles out of town.

Q. 18. Is that everything they told you?

A. I can't remember exactly.



Q. 19. Well, try to remember because I want just exactly what they said.

A. That's pretty much of it, really, of course, there was a lot of 10-4's and all that on the radio.

Q. 20. As far as anything substantial, that is the only thing that they said?

A. There was a stolen tractor on the property of Shirley Basham and that they wanted me to obtain a Search Warrant for the property of Shirley Basham.

Q. 21. And they told you to go get a Search Warrant?

A. Yes, they told me that information, you know, that the tractor was stolen and was there.

Q. 22. Did they tell you how they knew the tractor to be stolen?

A. No. Not at that time.

Q. 23. Stolen. You just relied strictly on the word of Detective Grey that the tractor was stolen?

A. Yes.

Q. 24. Mr. Hobson, I see, didn't make any comment about that one way or the other?

A. I don't remember.

Q. 25. Now, this is all of the information that you had at that time, is that correct?

A. Yes sir.

(T.E. Volume 1, Page 5, 6, and 7.)

In **Spinelli v. U.S.**, 89 Supreme Court Reporter, 584, 393, U.S.372, the Supreme Court set forth a two pronged test

which must be applied to determine whether or not the Judge or Magistrate issuing a search warrant, acting independently from the police officer, and basing a judgment upon the information contained in the Affidavit, had proper cause to issue a search warrant. To paraphrase, this test is as follows:

(1) The Affidavit must set forth the underlying circumstances necessary to enable a Magistrate to independently judge the validity of the affiant's conclusions and

(2) The Affidavit must support the proposition that the informant's conclusion, when informant is not named, is credible and that the information is reliable.

The Kentucky Court of Appeals in **Thompson vs. Commonwealth**, 1971, Ky, 472 SW2d 884 at Page 885 stated:

"Henceforward an affidavit for a search warrant based upon information supplied by an informer need not disclose the name of the informant if the allegations of the affidavit are sufficient to meet the tests laid down by the United States Supreme Court in *United States v. Ventresca*, 380 U.S. 102, 85 S.Ct. 741, 13 L.Ed. 2d 684 (1965); *Aguilar v. Texas*, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed. 2d 723 (1964); *Spinelle v. United States* 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed. 2d 637 (1969) and *United States v. Harris*, 403 U.S. 573, 91 S.Ct. 2075, 29 L.Ed. 2d 723 (1971). The basic teaching derived from these cases is that affidavit for a search warrant in which an informant is not named must contain allegations upon which the issuing magistrate can make an independent judgment (1) as to the credibility or reliability of the informant, and (2) that facts were known to the informant sufficient to

constitute probable cause and the basis of such knowledge shown.

The Court went on to hold that the bare statement that the informant was a person "who I believe in" was not sufficient and the evidence seized as a result of the search should have been suppressed. See also **Aguilar vs. Texas**, 84 Supreme Court 1509, 378, U.S. 108.

From a reading of the Affidavit supplemented by Detective Watt's testimony, we learn that on the day in question, Detective Watt was attending a police school at the Ramada Inn in Bowling Green when he received a phone call from the local State Police Post. A State Police Detective by the name of Gray was in radio contact with the State Police Post and his conversation was being transmitted by radio and then telephone to Detective Watt. The Affidavit discloses that an unnamed informant told Sergeant Vinsel of the Louisville Police Department certain information. Sergeant Vinsel then relayed this information to Detective Gray, who in turn relayed this information to Detective Watt. Thus we see that on the face of the Affidavit it discloses that the information had gone from the informant to Vinsel to Gray to Watt. The affiant, Watt, did not even know the other parties involved and the only basis to attest to the reliability of the information was hearsay information, third hand from individuals that he did not even know.

Armed with this sparse information, Detective Watt, went to the Warren County Courthouse and sought out the County Judge in an attempt to obtain a search warrant.

It then became incumbent upon the County Judge to make an independent determination based upon the Affidavit sworn to by Watt as to whether or not that Affidavit contained sufficient information to support a search warrant. As a pre-requisite thereto the issuing Judge had to make an independent determination as to the credibility and reliability of the undisclosed informant.

The Affidavit is completely devoid of any information which would lead the Judge to believe that the informant was reliable and credible. The Affiant did not know the informant and therefore could in no way attest to his reliability. Detective Watt testified that Gray did not even tell him how he knew the tractor was stolen but that he just made the bare assertion that it was stolen and that he had relied strictly on the informant. (T.E., Volume I, Page 6, questions 22 and 23 and answers).

One of the basic guarantees of our Constitution is the right of people to be secure in their houses and homes and to not be subject to unlawful search and seizure. Because it is so valuable a right, the Court has in its wisdom laid down rules as to the necessary requirements for an Affidavit in support of a search warrant:

"The onus of being specific is little enough price for the suspension of so valuable a right." (Judge Paramour in **Henson v. Commonwealth**, Ky. 347 SW 2d, 546).

In view of the case law cited above, and the facts disclosed on the face of the Affidavit, it is respectfully submitted that the Court was in error in failing to suppress the evidence seized as a result of the search.

## II.

The Court erred in permitting the Commonwealth to introduce testimony and evidence of other charges pending against the defendant, which charges were pending at the time of this trial.

From the outset of the trial, it became apparent that the Commonwealth was attempting to convict the defendant, Robinson, using the philosophy, and attempting to prejudice and persuade the jury with the premise, that "where there is a lot of smoke there must be some fire." The Commonwealth pursued this plan of prosecution under the guise of attempting to show a plan of conduct and common scheme on the part of the defendant, Robinson. Counsel requests the Court to remember that Robinson had only been charged with the offenses in Henry County and had not even been tried thereon, much less convicted. From an examination of the record, the method of the Commonwealth in introducing this testimony in evidence clearly shows that it was not introduced for the purpose of showing a common plan or scheme but was solely for the purpose of prejudicing and inflaming the jury against the defendant, Robinson. It should here be pointed out that counsel does not concede that this testimony would have been proper under any circumstances since the defendant had not been convicted, but was only charged with these offenses.

The Commonwealth began its unauthorized plan of prosecution with the opening statement:

"The Commonwealth will introduce as a witness, a man named Bryan L. Kruer. The evidence will be

that Mr. Krueger got together with the defendant Thomas Lancaster and with the defendant Randall Robinson, and the three of them entered into a plan to steal tractors and automobiles.

MR. O'GRODY: (Interrupting) Now, Judge, this is the point I want to object to and I want it definitely covered to begin with.

THE COURT: Overrule the objection. Give you an exception. Proceed, Mr. Lowe."  
(T.E., Volume III, Page 209).

Again in the opening statement at Page 214:

"The evidence will be that this very truck that Lancaster and Robinson put the tractor, the stolen tractor in, and brought down here, itself was stolen.

MR. O'GRODY: Objection, your Honor, and I'm going to ask for a mistrial. This is exactly what I was talking about, and I ask the Court for a mistrial at this time.

THE COURT: Overrule, and please stop interfering with the Opening Statement.

MR. O'GRODY: Judge, I have a right to object.

THE COURT: You have objected and the Court has overruled you, and govern yourself according. Proceed."

A lengthy hearing was had in regard to this objection and the Court overruled the objection stating that he would take care of it in the instruction. The Court apparently held that such testimony could be admitted for the limited purpose of showing a "pattern of conduct." (T.E., Volume II, Page 256 - 262).

The Commonwealth continued its plan throughout the entire trial of the case with virtually every witness being asked some question in regard to the charges that were pending in Henry County.

In questioning Detective Joseph A. Alendar, the detective who had conducted a surveillance of Mr. Robinson's Henry County farm, the Commonwealth elicited the following testimony:

"Q. 10. All right, tell the jury what you did.

A. Mainly, we had information that....

MR. O'GRODY: Judge, I'm going to object to any hearsay.

MR. LOWE: Judge, he's not telling any conversation.

THE COURT: Overrule the objection. Proceed.

A. My unit commander, Lt. Leslie, called me about noon on the seventh (7th) day of November, 1974, and advised me. . .

MR. O'GRODY: Now, He's repeating hearsay, Judge.

Q. 11. Just tell what information you received without repeating any conversation, what information that you have that led you to conduct this surveillance. Were you watching for any particular thing?

A. Yes, stolen property, a large amount of stolen property.

Q. 12. Any particular stolen items that you could name?

A. He named off a automobile, trucks, tractors, automobile parts and quite a few things. . ."  
(T.E. Volume IV, Page 313).

Again in the questioning of Detective Chissom the Commonwealth followed the same plan:

Q. 5. Did you have occasion to participate in the investigation of this case under trial?

A. Yes, sir, I did.

Q. 6. Mr. Chissom, in the testimony, this truck here was used to haul a stolen tractor to Bowling Green, Kentucky. Did you have occasion to examine this truck?

A. Yes, sir, I did.

MR. O'GRODY: Judge, can I approach the Bench, please?

THE COURT: Yes, sir.

MR. LOWE: Judge, we have been through this four times with Mr. O'Grody.

THE COURT: Yes, that's true.

(The following objection is heard by the Court outside the hearing of the jurors).

MR. O'GRODY: Judge, I'm going to object to this. This has nothing to do with this tractor, again, and, Judge, if this continues, I'm going to ask the Court for a mistrial.

THE COURT: What did you say?

MR. O'GRODY: I said, Judge, this extra and other evidence of unrelated crimes has nothing to do with this tractor, and with the continuation of this type of



evidence, Judge, I want to ask the Court for a mistrial.

MR. LOWE: Now, Judge, that's exactly what we went through before.

THE COURT: Overruled.

Q. 7. Now, Det. Chissom, would you tell the jury what you found out about this truck that hauled this tractor down here.

A. After we returned that truck to LaGrange, we had it examined and found that the bed, the enclosure of the rear of that truck, was stolen from the Independent Wire and Sheeting Company of Louisville. A truck with that bed on it was stolen and the contents, quite an amount of Bromo gas. Upon examination of the bed that was on that truck, we found secret serial numbers that prove that it was the same bed that was stolen on that truck from the Independent Wire and Sheet Company in Louisville.

Q. 8. Have you ever been to the farm of Randall Robinson?

A. Yes, sir, I have.

MR. O'GRODY: I don't see how this jury can try this case, Your Honor, and decide just the issues in this case when all this other extraneous matter has come in Court. I think it's impossible for this jury to do that and I want to move for a mistrial right now.

MR. LOWE: Judge, the Court has already ruled that the testimony of this defendant's criminal activities is admissible to prove plan of criminal activity, guilty knowledge, motive, intent and pattern of conduct.

THE COURT: Objection overruled. Giving exception. Proceed."  
(T.E. Volume IV 359 through 361).

Even upon cross-examination of the co-defendant, Basham who stated he had only been to the Robinson farm one time, the Commonwealth used the same approach:

Q. 51. Mr. Basham, how long have you known Randy Robinson?

A. Approximately 3 years.

Q. 52. And you had his phone number, office and home phone number in your pocket?

A. Yes sir, I still do.

Q. 53. And were you aware of the fact that he had a farm full of stolen property up there?

A. No, sir, I was never at his farm but once. My wife and I went up there one time. . . and one time only.

Q. 54. You didn't know that he had a trailer on there with \$25,000.00 worth of stolen parts. . . .

A. No sir, I didn't.

Q. 55. You didn't know he had a stolen tractor, other than this one there . . . .

A. No, Sir, I did not.

Q. 56. And you weren't aware that he had. . . even the riding mower was stolen?

A. No Sir, I did not.

Q. 57. You weren't aware that he had stolen Driver's Licenses at his house?

A. No sir."

(T.E. Volume V, Page 474 and 475).

The Commonwealth's plan of prosecution again became apparent in the closing argument:

"We're not dealing in this case, we're dealing with a tractor, but we're not dealing with an isolated incidence of one man stealing a tractor on just one occasion and getting caught with it.

We are dealing here with a very professional group of individuals. A very skilled and very competent group of individuals. If nothing else has become obvious to you through this trial, I think that one factor has come through.

We are dealing with a group of individuals who systematically, professionally, do this type of thing for a living.

This tractor, it was testified to you by Mr. Kruer, as related to Mr. Robinson and Mr. Lancaster, this is not the first time this has happened."

(T.E. Volume VI, Page 508).

Again in the closing argument, the Commonwealth stated:

"Another piece is the type of people he's doing business with. Doing business with Randy Robinson, who has a farm full of stolen property, a house with stolen Driver's Licenses taken in a break-in down here at Russellville, in his house... you have to look at the kind of person that you're doing business with. . ."

(T.E. Volume VI, Page 528-529).

A major part of the cross-examination of the defendant, Robinson, was comprised of questions about the charges

which were pending against him in Henry County. (T.E. Volume V, Page 431 through 436). These comments were objected to by defendant's trial counsel. (T.E. Volume VI, Page 532 and 533).

In the case of **Pankey v. Commonwealth**, 1972, Kentucky 485 S.W. 2d, 513, the Court at page 526 held:

"The appellants were entitled to be tried for the crime charged in the indictment and no other. Evidence which tends to prove the crime charged is admissible even though it may also show the commission of another offense. Evidence of conviction of other crimes is also admissible to show motive, intent, guilty knowledge, plan or system. **Little v. Commonwealth, Ky.**, 419 S.W.2d 332 (1967); **Bell v. Commonwealth, Ky.**, 404 S.W.2d 462 (1966) and Roberson's Kentucky Criminal Law and Procedure 2d, Section 1794. Under the limitations set forth in **Cotton v. Commonwealth, Ky.**, 454 S.W. 2d 698 (1970) evidence of conviction of other crimes is admissible for impeachment.

The testimony elicited during the cross-examination of Pankey concerning the robbery in Madison, Wisconsin, simply showed that Pankey, Spears and Swaite had been charged with, but not convicted of, that crime. Pankey denied his guilt and the others did not testify.

What is the relevancy of this testimony: The Attorney General argues that it was proper to show the circumstances of the Wisconsin robbery to show a recognizable pattern or plan used by the appellants there and in the Louisville robbery. The difficulty with that argument is that appellants have not been convicted of the Madison robbery and there was no

proof of their guilt. The plan or pattern used in Madison was not necessarily a plan or pattern used by the appellants.

The fact that appellants were charged with a similar crime in Madison, Wisconsin, was no proof that they were guilty of that crime and certainly no proof of their guilt of a crime in Louisville. That evidence did tend to create an impression that appellants were a band of professional robbers. Pankey and Swaite of course had admitted one robbery but Pope and Spears had admitted nothing. The Commonwealth's Attorney attempted to expand the stigma which attached to Pankey as a result of his previous indictment to include Swaite, Pope and Spears by showing that they had associated with Pankey in a number of other states.

That Spears, Pope or Swaite may have associated with Pankey in any number of states, or even that they may have committed crimes therein, is no proof of the commission of the crime charged here. The admission of this evidence had an undeniable tendency to inflame and prejudice the jury against the appellants and invited the jury to determine the issue of guilt or innocence--and the punishment--upon a basis other than evidence pertaining to the charge. For this reason we have consistently condemned the introduction of evidence of conviction or commission of unrelated crimes except for the narrow purposes above noted. **Powell v. Commonwealth**, 308 Ky. 467, 214 S.W. 2d 1002 (1948). The admission of evidence of the fact that Pankey, Swaite and Spears were charged with other separate crimes was erroneous and prejudicial."

It appears to counsel that the holding in Pankey is virtually on all fours with the case at bar. The critical word in the Pankey decision is that other **convictions** (emphasis supplied) may be admissible under certain limited circumstances. In the case at bar, Robinson had not been tried on any of the charges from Henry County but had only been charged with certain offenses (T.E., Volume V, Page 440, Q. 129 and A.) Robinson was entitled to be tried for the crime charged in the Indictment and no other. The testimony introduced could have but one effect, that being to inflame and prejudice the jury and invite the jury to determine the issue of guilt or innocence upon the basis of other evidence than that related to the Indictment upon which Robinson was being tried. It therefore became impossible for the jury to determine Robinson's guilt or innocence based solely upon evidence relating to Indictment No. 15883 returned by the Warren County Grand Jury. It is respectfully submitted that the only purpose for the introduction of the above cited testimony was to prejudice and inflame the jury against the defendant, Robinson and the introduction of such evidence has been constantly condemned by the Court, under the circumstances outline in this case.

It is further respectfully submitted that the Court committed substantial and prejudicial error in permitting such testimony to be introduced and that as a result of such evidence it was impossible for the defendant, Robinson to receive a fair trial.


**CONCLUSION**

It is respectfully submitted to the Court that for the reasons cited hereinabove this cause should be remanded to the Warren Circuit Court with directions to suppress the evidence seized as a result of illegal search and seizure and should further be reversed upon the grounds that the Court erred in permitting the introduction of the evidence referred to hereinabove.

**RESPECTFULLY SUBMITTED:****MILLIKEN AND MILLIKEN**

1039 College Street

Bowling Green, Kentucky

  
W. Currie Milliken

COMMONWEALTH OF KENTUCKY  
WARREN QUARTERLY COURT

COMMONWEALTH OF KENTUCKY  
COUNTY OF

AFFIDAVIT IN SUPPORT of and  
PETITION FOR SEARCH WARRANT

Comes the affiant, *Chris Watt of Kentucky State Police*  
a peace officer of \_\_\_\_\_  
who personally appeared before the undersigned and being first duly sworn now on  
oath deposes, affirms and says that he has and there is reasonable and probable grounds  
to believe and affiant does believe that there is now on the premises known and numbered  
as *the farm of Shirley Basham on Campbell Road*  
and more particularly described as follows: *in Warren Co., Ky.*  
*his residence*  
*a Massey-Ferguson tractor thereon*

and/or in (a) vehicle(s) described as \_\_\_\_\_

*a Massey-Ferguson*  
*tractor*

and/or on the person(s) of \_\_\_\_\_

the following described personal property, to wit: \_\_\_\_\_

Affiant states that there is probable and reasonable cause to believe and  
affiant does believe that said property constitutes (check appropriate box or boxes)

- (✓) stolen or embezzled property;
- (✓) property or things used as the means of committing a crime;
- (✓) property or things in the possession of a person who has  
intention to use same as means of committing a crime or in  
the possession of another to whom any person may have de-  
livered it for purpose of concealing it or preventing its  
being discovered;
- (✓) property or things which consist of evidence which tends to  
show that a crime has been committed or that a particular  
person has committed a crime.



Affiant has been an officer in the above agency for a period of 4 years and the information and observations contained herein were received and made in his capacity as an officer thereof.

On the 8 day of Nov, 1974, at approximately 12:30 a.m./p.m., affiant received information from/observed and 2:15 p.m.

Terry Gray, a Kentucky State Policeman told me he followed a truck from Louisville, Ky. to Warren County, Ky. on this date. He stated the truck was hauling a stolen tractor and the tractor was taken this afternoon and unloaded at the farm of Shirley Bohman and is there now and that it was a Massey-Ferguson tractor. He said the tractor was taken to the farm of Shirley Bohman on Campbell Road in Warren Co., Ky. The farm is 4.4 miles from city limits of Bowling Green, Ky. You turn left off the Campbell Road onto a gravel road. The farm is located 3/4 of a mile down the gravel road at the dead end. It is a white frame house on the right at the dead end. There is a garage and outbuildings there. Gray told me this today and said there was other stolen property in the house, garage and outbuildings. It is his residence. He said it done times.

Acting on the information received, affiant conducted the following independent investigation:

This farm was determined to be in Warren Co. Ky. Gray told me he knew the tractor was stolen property because an informant had today told him so and he knew the informant to be confidential and reliable and that Sgt David Vinsel of Louisville Police Dept told him this date it was stolen and that Vinsel said to Gray that an informant who was reliable told him the tractor was stolen and the informant had given information before and it was proved to be reliable. Terry Gray told me he witnessed the above acts.

Affiant has reasonable and probable cause to believe that grounds exist for the issuance of a search warrant, based on the aforementioned facts, information and circumstances and prays that a search warrant be issued, that the property be seized, or any part thereof, and brought before any court and/or retained subject to order of said court.

Chris W. [Signature]

Subscribed and sworn to before me on this 8 day of Nov, 1974 at 320 a.m. (p.m.)

Judge, Warren Quarterly

Court